



OCT 26 2000

Mr. Robert C. Gross
Executive Director
Department of Workforce Services
140 East 300 South
P.O. Box 143001
Salt Lake City, Utah 84114-3001

Dear Mr. Gross:

This is in reference to the State's request to carry forward certain Job Training Partnership Act (JTPA) general statutory waivers previously granted to the State under the Secretary's new general waiver authority contained in the Workforce Investment Act (WIA) at section 189(i)(4).

The State's submission, contained in its 5-year Strategic Plan, requests continuation of six JTPA waivers approved for Program Year (PY) 1998, which were extended through PY 1999. As stated in the executed PY 1999 Grant Modification, all JTPA waivers end on June 30, 2000, or the date that the State fully implements its 5-year WIA plan, whichever comes first. Thus, at this time, there are no JTPA waivers to carry forward. Additionally, with the exception of waiver request #1, related to the administrative cost limitation, which we have conditionally approved, waivers are not necessary to achieve the results desired by the State. Our disposition of the discrete six waiver requests is set forth below.

Waiver # 1. Cost Limitations/Cost Categories The JTPA cost limitations waiver granted to the State included a waiver to reduce the JTPA cost categories from three to two - Administration and Program. Clearly, this waiver is no longer needed since the WIA legislation addressed the issue which necessitated the need for a waiver under JTPA. The WIA legislation only contains two cost categories Administration and Program. Accordingly, no waiver is needed.

The State's request to waive the local administrative cost limitation is approved in part, as described below. The State requested a waiver, to apply to all local workforce investment areas, of the 10% local administrative cost limitation set forth at WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2). We are not approving a statewide waiver of the local administrative cost limitation because we do not believe that the limitation generally impedes the ability of local areas to implement their local plans. The definition of administrative costs, described in 20 CFR 667.220, was developed through extensive consultation with our federal, state and local partners, and after extensive field-testing. We believe that this provision presents a reasonable and easy-to-use definition, and expect that experience will show that by applying this definition, most local areas will be able to provide high-quality services while still meeting the 10% administrative cost limitation. However, we acknowledge that



circumstances may exist in some local areas which would prevent the area from meeting the 10% limitation despite its best efforts to do so. Therefore, we are providing the Governor authority to apply a waiver of the 10% administrative cost limitation to those local areas that demonstrate a need for the waiver. This approval is granted on condition that the Governor develop standards or criteria for determining whether special circumstances exist to indicate that a particular local workforce investment area will be unable to meet the 10% administrative cost limitation in the absence of the waiver. The Governor must submit the standards or criteria to the Grant Officer for inclusion in the grant file and must notify the Grant Officer of any waivers granted.

The appropriate grant documents including the approved waiver of the 10% local-level administration limit will be forwarded to you under separate cover. Please handle according to the instructions included with the document and return to the Grant Officer.

Waiver # 2. Title III Reallotment Provisions The JTPA waiver to permit the State to expend title III dislocated worker funds in the year of allotment plus the two following years, provided that the State expend at least eighty percent of allotted funds in the year of allotment, is not operable under WIA. The provision for which the waiver was sought under JTPA was changed in the WIA legislation. Whereas, under JTPA the reallotment provisions applied with respect to the expenditure of funds, under WIA the reallotment provisions apply with respect to the obligation of funds. Accordingly, this waiver has no application under WIA.

Waiver # 3. Procurement Requirements The JTPA waiver granted to Utah permitted the use of State procurement procedures, in lieu of the JTPA procurement requirements, to the extent that they were consistent with the requirements of OMB Circular A-102, and permitted local SDA's to use local procurement rules, to the extent that they were consistent with the State rules and OMB Circular A-102. Under WIA, States are now required to follow the Common Rule "Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments," as codified in 29 CFR Part 97. The Common Rule provides that States follow their own procurement rules to the extent that they are consistent with the Common Rule, and local areas follow their procurement rules to the extent they are consistent with the Common Rule and the State rules. Accordingly, a waiver is not necessary.

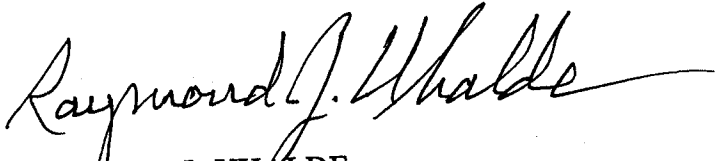
Waiver # 4. Private-sector Internships The waiver granted to the State to permit limited internships with private for-profit employers, for non-economically disadvantaged adults and youth, is not needed. The WIA regulations, at section 663.200(a), include internships as an allowable intensive service for adults and dislocated workers, when based on an assessment or individual employment plan. Such activity is not limited, and could occur in the private for-profit, the non-profit, or the public sector. Additionally, the WIA regulations at section 664.460(b) specifically authorize youth work experiences, including internships, which may be in the private for-profit sector, the non-profit sector or public sector, when supported by the objective assessment of an individual youth participant. Accordingly, a waiver is not needed.

Waiver # 5. Youth Employability Enhancements (YEEN) Definitions YEEN terminations are not a performance standard reporting criteria under WIA, as they were under JTPA. Accordingly, there is no requirement to waive.

Waiver # 6. Work Experience for Dislocated Workers The waiver granted to the State to permit work experience with private for-profit employers, for dislocated workers, is not needed. The WIA regulations, at section 663.200(a), include work experience as an allowable intensive service for adults and dislocated workers, when based on an assessment or individual employment plan. Such activity is not limited, and could occur in the private for-profit, the non-profit, or the public sector. Accordingly, a waiver is not needed.

We appreciate the State's views and look forward to working with the State as we proceed to fully implement the new program. We are prepared to entertain other State and local-level waiver requests that Utah may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,

A handwritten signature in black ink, reading "Raymond J. Uhalde". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

RAYMOND J. UHALDE
Deputy Assistant Secretary